

Notice of Proposed Regulatory Action

The State Board of Equalization Proposes to Amend California Code of Regulations, Title 18, Division 2.1, *Rules for Tax Appeals*, Chapter 2, *Sales and Use Tax, Timber Yield Tax, and Special Taxes and Fees*, Chapter 3, *Property Taxes*, Chapter 4, *Appeals from Actions of the Franchise Tax Board*, and Chapter 5, *General Board Hearing Procedures*

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board) proposes to adopt amendments to chapters 2 through 5 of the Board's *Rules for Tax Appeals* (RTA), codified in division 2.1 of title 18 of the California Code of Regulations. The proposed amendments to California Code of Regulations, title 18, division 2.1, sections (RTA Regulations) 5511, *Definitions*, 5551, *Voting and Decisions*, 5573, *Waiver of Confidentiality*, and 5574, *Request for Portion of Oral Hearing Conducted During Closed Session*, and the proposed adoption of new RTA Regulation 5552, *Publication*, incorporate and implement, interpret, and make specific the publication requirements contained in section 40, which was added to the Revenue and Taxation Code (RTC) by Assembly Bill No. (AB) 2323 (Stats. 2012, ch. 788), effective January 1, 2013.

The proposed amendments to RTA Regulations 5200, *Application of Chapter 2 and Definitions*, 5212, *Contents of Petitions for Redetermination, and Supporting Arguments and Evidence*, 5215, *Scope of Petitions for Redetermination Filed Under Hazardous Substances Tax Law*, 5215.4, *Scope of Petitions for Redetermination Filed Under Covered Electronic Waste Recycling Fee*, 5215.6, *Scope of Petition for Redetermination Filed Under Water Rights Fee Law*, 5216, *Filing Petitions for Redetermination*, 5217, *Assignment and Acknowledgment of Petitions for Redetermination*, 5218, *Review of the Petition by the Assigned Section*, 5219, *Mailing the Summary Analysis and Scheduling the Appeals Conference*, 5220, *Premature or Untimely Petition May Be Treated as an Administrative Protest*, 5222, *Persons Who May File a Petition for Redetermination of a Jeopardy Determination*, 5224, *Review of Petition for Redetermination of Jeopardy Determination*, 5225, *Persons Who May File an Application for Administrative Hearing; Manner of Filing; and Consolidation with Petition*, 5230, *Persons Who May File a Claim for Refund; Limitations on Certain Claims*, 5233, *Filing Claims for Refund*, 5235, *Action on the Claim for Refund*, 5237, *Board Approval Required for Refunds Over \$100,000*, 5240, *Persons Who May File, Contents of, and Manner of Filing Requests for Innocent Spouse Relief (Sales and Use Tax, Including State-Administered Local Sales, Transactions, and Use Taxes)*, 5241, *Acknowledgement and Review of Requests for Innocent Spouse Relief*, 5242, *Requests for Reconsideration by the Board*, 5247, *Authority to Grant Relief Due to Reasonable Reliance on Written Advice and Contents of Requests for Relief Due to Reasonable Reliance on Written Advice*, 5250, *Filing and*

Reviewing Claims and Inquiries Regarding Incorrect or Non-Distribution of Local and District Taxes, 5262, Requests to Reschedule or Postpone Appeals Conferences, 5264, Conducting the Appeals Conference; Parties to the Appeals Conference; Nature of the Appeals Conference; Failure to Appear, 5266, Appeals Staff Recommendations; Requests for Reconsideration; Requests for Oral Hearings, 5267, Issuance of Post Appeals Conference Notices, 5270, Requirements for Briefs; Briefing Schedule; Non-Party Briefs; Additional Briefing, 5311, Definitions, 5322, Information Available to Assesseees; Assessment Factor Hearings, 5323.6, Submission of Petition, 5323.8, Duplicate Petitions, 5324, Timeliness of Petition, 5325.6, Prehearing Review of All Other Petitions, 5332, Time of Filing of Application, 5332.6, Submission of Application and Board-Appraised Property, 5333, Time for Filing of Petitions, 5333.4, Contents of Petition, 5333.6, Submission of Petition, 5334, Time for Filing of Petitions, 5334.4, Contents of the Petition, 5334.6, Submission of Petition, 5335, Submission of Petitions, Briefs, and Related Documents, 5336.5, Perfecting a Petition, 5345, Finality of Board Action; Written Findings and Decision, 5421, Methods for Delivery of Written Documents and Correspondence, 5435, Additional Briefing, 5444, Hearing Summary, 5451, Summary Decisions, 5452, Formal Opinions, 5460, Finality of Decision, 5463, Decisions on Petitions for Rehearing, 5510, General Application of Chapter 5, 5522.8, Dismissal, Deferral, and Postponement, 5523.6, Presentation of Evidence or Exhibits, 5561, Petition for Rehearing, 5562, Recommendation on Petition for Rehearing, and 5570, Mailing Address, the proposed adoption of new RTA Regulations 5255, Cigarette and Tobacco Products Licensing Act Appeals, 5256, Petitions for Recovery of Seized Cigarette and Tobacco Products, and 5453, Notice of Board's Determination, and the proposed repeal of RTA Regulations 5450, Letter Decisions, 5512, Construction, and 5563, Rehearings, make RTA chapters 2 through 4 consistent with the amendments being made to RTA chapter 5 to incorporate and implement, interpret, and make specific RTC section 40's publication requirements and address historical clean-up and housekeeping issues in RTA chapters 2 through 5.

PUBLIC HEARING

The Board will conduct a meeting in Room 121, at 450 N Street, Sacramento, California, on November 19-21, 2013. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 09:30 a.m. or as soon thereafter as the matter may be heard on November 19, 20, or 21, 2013. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to RTA chapters 2 through 5.

AUTHORITY & REFERENCE

RTA Regulation 5200: Authority: Government Code (GC) section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6561, 6814, 6902, 7710, 8128, 8851, 9152, 12428, 12978, 30261, 30362, 32301, 32402, 38441, 38602, 40091, 40112, 41085, 41101, 43301, 43452, 45301, 45652, 46351, 46502, 50114, 50140, 55081, 55222, 60350 and 60522.

RTA Regulation 5212: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38442, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6561.5, 7710.5, 8851.5, 12428, 30261.5, 32301.5, 38442, 40092, 41086, 43302, 45302, 46352, 50115, 55082 and 60351.

RTA Regulation 5215: Authority: GC section 15606 and RTC section 43501. Reference: RTC section 43301 and Health and Safety Code (HSC) section 105310.

RTA Regulation 5215.4: Authority: GC section 15606 and RTC section 55301. Reference: Public Resources Code (PRC) section 42464.6.

RTA Regulation 5215.6: Authority: GC section 15606 and RTC section 55301. Reference: Water Code section 1537.

RTA Regulation 5216: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6561, 6814, 7710, 8851, 12428, 30175, 30261, 32301, 38441, 40091, 41085, 43301, 45301, 46351, 50114, 55081 and 60350.

RTA Regulation 5217: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6562, 7711, 8852, 12429, 30175, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352.

RTA Regulation 5218: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6562, 7711, 8852, 12429, 30175, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352.

RTA Regulation 5219: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6562, 7711, 8852, 12429, 30175, 30262, 32302, 38443, 40093, 41087, 43303, 45303, 46353, 50116, 55083 and 60352.

RTA Regulation 5220: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6981, 8191, 9196, 12951, 30421, 32440, 38631, 40121, 41107, 43491, 45801, 46551, 50151, 55281 and 60581.

RTA Regulation 5222: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6538, 7700, 8828, 30243, 32312, 38433, 43351, 45352, 46302, 50120.2, 55102 and 60332

RTA Regulation 5224: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6538, 7700, 8828, 30243, 32312, 38433, 43351, 45352, 46302, 50120.2, 55102 and 60332.

RTA Regulation 5225: Authority: GC section 15606 and RTC sections 6538.5, 7051, 7700.5, 8251, 8828.5, 9251, 13170, 30243.5, 30451, 32313, 32451, 38435, 38701, 40171, 41128, 43352, 45353, 43501, 45851, 46601, 50120.3, 50152, 55103, 55301, 60333 and 60601. Reference: RTC sections 6538.5, 7700.5, 8828.5, 30243.5, 32313, 38435, 43352, 45353, 50120.3, 55103 and 60333.

RTA Regulation 5230: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6901, 6902, 8101, 8101.1, 8101.6, 8101.7, 8102, 8126, 8128, 9151, 9152, 12977, 12978, 30176, 30176.1, 30176.2, 30177, 30361, 30362, 32401, 32402, 32407, 38601, 38602, 40111, 40112, 41100, 41101, 43451, 43452, 45651, 45652, 46501, 46502, 50139, 50140, 55221, 55222, 60501, 60502, 60507, 60521 and 60522 and Water Code section 1537.

RTA Regulation 5233: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6902, 8128, 9152, 12978, 30178, 30178.1, 30362, 32402, 32402.1, 32407, 38602, 40112, 41101, 43452, 45652, 46502, 50140, 55222, 60501, 60502, 60507, 60521 and 60522.

RTA Regulation 5235: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6901, 6902, 6906, 8126, 8128, 9151, 9152, 12977, 12978, 12981, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30361, 30362, 30365, 32401, 32402, 32402.1, 32404, 32407, 38601, 38602, 38605, 40111, 40112, 40115, 41100, 41101, 41101.1, 41104, 43451, 43452, 43454, 45651, 45652, 45654, 46501, 46502, 46505, 50139, 50140, 50142, 55221, 55222, 55224, 60501, 60502, 60507, 60521 and 60522.

RTA Regulation 5237: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6901, 8126, 9151, 12977, 30361, 32401, 38601, 40111, 41100, 43451, 45651, 46501, 50139, 55221 and 60521.

RTA Regulation 5240: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152 and 55301.

Reference: RTC sections 6456, 7202, 7203, 7261, 7262, 7270, 7657.5, 8880, 30285, 32258, 38454.5, 40105, 41099, 43159.1, 43159.2, 45158, 46159, 50112.6 and 55045.1.

RTA Regulation 5241: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152 and 55301. Reference: RTC sections 6456, 7202, 7203, 7261, 7262, 7270, 7657.5, 8880, 30285, 32258, 38454.5, 40105, 41099, 43159.1, 43159.2, 45158, 46159, 50112.6 and 55045.1.

RTA Regulation 5242: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152 and 55301. Reference: RTC sections 6456, 7202, 7203, 7261, 7262, 7270, 7657.5, 8880, 30285, 32258, 38454.5, 40105, 41099, 43159.1, 43159.2, 45158, 46159, 50112.6 and 55045.1.

RTA Regulation 5247: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6596, 7657.1, 8879, 30284, 32257, 38454, 40104, 41098, 43159, 45157, 46158, 50112.5, 55045 and 60210.

RTA Regulation 5250: Authority: GC section 15606 and RTC sections 7202, 7203, 7261, 7262, 7270. Reference: RTC sections 7209 and 7223.

RTA Regulation 5255: Authority: Business and Professions Code (BPC) section 22971.2. Reference: BPC sections 22973.1, 22974.7, 22977.2, 22978.7, 22979 and 22979.7.

RTA Regulation 5256: Authority: BPC section 22971.2 and RTC section 30451. Reference: BPC sections 22974.3, 22978.2 and 22980.2 and RTC section 30438.

RTA Regulation 5262: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6901, 6902, 6906, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46511, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581.

RTA Regulation 5264: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6901, 6902, 6906, 6981, 7081, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46511, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581.

RTA Regulation 5266: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6901, 6902, 6906, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46511, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581.

RTA Regulation 5267: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6901, 6902, 6906, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362,

30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46511, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581.

RTA Regulation 5270: Authority: GC section 15606 and RTC sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6901, 6902, 6906, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46511, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581.

RTA Regulation 5311: Authority: GC sections 15606 and 15640 and RTC section 11651. Reference: GC sections 15640 and 15645 and RTC sections 214, 254.6, 270, 721, 721.5, 747, 759, 1840 and 11251.

RTA Regulation 5322: Authority: GC section 15606 and RTC section 11651. Reference: RTC sections 110, 721, 721.5, 722, 723, 724, 725, 731, 746, 11251, 11291, 11292 and 11293.

RTA Regulation 5323.6: Authority: GC section 15606 and RTC section 11651. Reference: RTC section 741.

RTA Regulation 5323.8: Authority: GC section 15606 and RTC section 11651. Reference: RTC section 741.

RTA Regulation 5324: Authority: GC section 15606 and RTC section 11651.
Reference: RTC sections 733, 741, 743, 746, 747, 758, 759, 11338 and 11339.

RTA Regulation 5325.6: Authority: GC section 15606 and RTC section 11651.
Reference: RTC sections 741, 747 and 11340.

RTA Regulation 5332: Authority: Article XIII, section 11, California Constitution and GC section 15606. Reference: RTC section 1840.

RTA Regulation 5332.6: Authority: Article XIII, section 11, California Constitution and GC section 15606. Reference: RTC section 1840.

RTA Regulation 5333: Authority: GC section 15606. Reference: RTC sections 214, 254.6 and 270.

RTA Regulation 5333.4: Authority: GC section 15606. Reference: RTC sections 214, 254.6 and 270.

RTA Regulation 5333.6: Authority: GC section 15606. Reference: RTC sections 214, 254.6 and 270.

RTA Regulation 5334: Authority: GC sections 15606 and 15640. Reference: GC sections 15640 and 15645.

RTA Regulation 5334.4: Authority: GC sections 15606 and 15640. Reference: GC sections 15640 and 15645.

RTA Regulation 5334.6: Authority: GC sections 15606 and 15640. Reference: GC sections 15640 and 15645.

RTA Regulation 5335: Authority: GC sections 15606 and 15640. Reference: GC section 15640 and RTC sections 214, 254.6, 270 and 1840.

RTA Regulation 5336.5: Authority: GC sections 15606 and 15640. Reference: GC sections 15640 and 15645 and RTC sections 214, 254.6, 270 and 1840.

RTA Regulation 5345: Authority: GC sections 15606 and 15640 and RTC section 11651. Reference: GC sections 15640 and 15645 and RTC sections 214, 254.6, 270, 721, 721.5, 747, 759, 1840, 1841 and 11251.

RTA Regulations 5421, 5435, 5444, 5450, 5451, 5452, 5453, and 5460: Authority: GC section 15606. Reference: RTC sections 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346 and 20645.

RTA Regulation 5463: Authority: GC section 15606. Reference: Code of Civil Procedure section 657 and RTC sections 18533, 19043.5, 19045, 19047, 19048, 19084, 19085, 19087, 19104, 19324, 19331, 19333, 19334, 19335, 19343, 19345, 19346 and 20645.

RTA Regulation 5510: Authority: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601.

RTA Regulation 5511: Authority: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. References: Article XIII, section 17, California Constitution, GC sections 15606 and 15640, and RTC sections 20, 40, 254.5, 254.6, 742, 748, 1840, 5107, 5148, 6074, 6456, 6538, 6538.5, 6562, 6592, 6593, 6593.5, 6596, 6901, 6902, 6906, 6981, 7209, 7223, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 18533, 19047, 19085, 19104, 19333, 19345, 20645, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581.

RTA Regulation 5512: Authority: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601.

RTA Regulation 5522.8: Authority: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: GC sections 15606 and 15640 and RTC sections 254.5, 254.6, 742, 748, 1840, 5148, 6074, 6456, 6538, 6538.5, 6562, 6592, 6593, 6593.5, 6596, 6901, 6902,

6906, 6981, 7209, 7223, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 15640, 18533, 19047, 19085, 19104, 19333, 19345, 20645, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581.

RTA Regulation 5523.6: Authority: California Constitution, article XIII, section 11; GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601. Reference: GC sections 15606 and 15640, and RTC sections 254.5, 254.6, 742, 748, 1840, 5148, 6074, 6456, 6538, 6538.5, 6562, 6592, 6593, 6593.5, 6596, 6901, 6902, 6906, 6981, 7081, 7209, 7223, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 15640, 18533, 19047, 19085, 19104, 19333, 19345, 20645, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581.

RTA Regulation 5551: Authority cited: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: Article XIII, section 17, California Constitution, GC sections 7.9, 11122.5, 11125, 15606 and 15640, and RTC sections 40, 254.5, 254.6, 742, 748, 1840, 5148, 6074, 6456, 6538, 6538.5, 6562, 6592, 6593, 6593.5, 6596, 6901, 6902, 6906, 6981, 7209, 7223, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 18533, 19047, 19085, 19104, 19333, 19345, 20645, 30175,

30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522 and 60581.

RTA Regulation 5552: Authority: GC section 15606. Reference: RTC section 40.

RTA Regulation 5561: Authority: GC section 15606, and RTC sections 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9196, 12429, 12431, 12636, 12637, 12951, 12977, 19048, 19104, 19334, 19346, 20645, 30175, 30176, 30176.1, 30176.2, 30177, 30243, 30243.5, 30262, 30263, 30282, 30283, 30283.5, 30284, 30361, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32304, 32312, 32313, 32401, 32404, 32407, 32440, 38433, 38435, 38443, 38445, 38452, 38453, 38454, 38455, 38601, 38605, 38631, 40093, 40095, 40102, 40103, 40103.5, 40104, 40111, 40115, 40121, 41087, 41089, 41096, 41097, 41097.5, 41098, 41100, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43305, 43351, 43352, 43451, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45305, 45352, 45353, 45651, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46355, 46501, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50118, 50120.2, 50120.3, 50139, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55085, 55102, 55103, 55221, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60354, 60501, 60502, 60521 and 60581.

RTA Regulation 5562: Authority: GC section 15606, and RTC sections 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9196, 12429, 12431, 12636, 12637, 12951, 12977, 19048, 19104, 19334, 19346, 20645, 30175, 30176, 30176.1, 30176.2, 30177, 30243, 30243.5, 30262, 30263, 30282, 30283, 30283.5, 30284, 30361, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32304, 32312, 32313, 32401, 32404, 32407, 32440, 38433, 38435, 38443, 38445, 38452, 38453, 38454, 38455, 38601, 38605, 38631, 40093, 40095, 40102, 40103, 40103.5, 40104, 40111, 40115, 40121, 41087, 41089, 41096, 41097, 41097.5, 41098, 41100, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43305, 43351, 43352, 43451, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45305, 45352, 45353, 45651, 45654, 45801, 46156, 46157, 46157.5,

46158, 46302, 46303, 46353, 46355, 46501, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50118, 50120.2, 50120.3, 50139, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55085, 55102, 55103, 55221, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60354, 60501, 60502, 60521 and 60581.

RTA Regulation 5563: Authority: GC section 15606, and RTC sections 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: RTC sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9196, 12429, 12431, 12636, 12637, 12951, 12977, 19048, 19104, 19334, 19346, 20645, 30175, 30176, 30176.1, 30176.2, 30177, 30243, 30243.5, 30262, 30263, 30282, 30283, 30283.5, 30284, 30361, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32304, 32312, 32313, 32401, 32404, 32407, 32440, 38433, 38435, 38443, 38445, 38452, 38453, 38454, 38455, 38601, 38605, 38631, 40093, 40095, 40102, 40103, 40103.5, 40104, 40111, 40115, 40121, 41087, 41089, 41096, 41097, 41097.5, 41098, 41100, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43305, 43351, 43352, 43451, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45305, 45352, 45353, 45651, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46355, 46501, 46505, 46551, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50118, 50120.2, 50120.3, 50139, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55085, 55102, 55103, 55221, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60354, 60501, 60502, 60521 and 60581.

RTA Regulation 5570: Authority: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601.

RTA Regulation 5573: Authority: Article XIII, section 11, California Constitution, GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: Article XIII, section 11, California Constitution, GC sections 6254, 11124.1, 11125.1, 15606, 15619 and 15640, and RTC sections 40, 251, 743, 833, 1840, 7051, 7056, 8251, 8255, 9251, 9255, 11651, 11655, 13170, 19542, 19545, 30451, 30455, 32451, 32455, 38701, 38705, 38706, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601 and 60609.

RTA Regulation 5574: Authority: Article XIII, section 11, California Constitution; GC sections 15606 and 15640, and RTC sections 251, 1840, 7051, 8251, 9251, 11651, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601. Reference: Article XIII, section 11, California Constitution; GC sections 6254, 11124.1, 11125.1, 15606, 15619 and 15640, and RTC sections 40, 251, 743, 833, 1840, 7051, 7056, 8251, 8255, 9251, 9255, 11651, 11655, 13170, 19542, 19545, 30451, 30455,

32451, 32455, 38701, 38705, 38706, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601 and 60609.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

Adoption of the RTA

The RTA became effective on February 6, 2008. The RTA was originally adopted to provide comprehensive regulations governing the administrative and appellate review processes for all of the tax and fee programs administered by the Board and specifically address public concerns, at the time, regarding the Board's administrative and appellate review processes. (See RTA § 5000.) Chapter 1 (RTA § 5000) names the RTA, and provides a clear statement of the Board's primary intent for its implementation, which is to improve the Board's relationship with taxpayers and fee payers (hereafter, collectively, taxpayers). Chapter 2 (RTA §§ 5200-5271) codified the Board's existing practices, at the time, for handling appeals involving revenue-generating tax and fee programs (business taxes and fees), including the Sales and Use Tax, administered by the Board. (See BOE Publication 41, *Taxes and Fees Administered by the California State Board of Equalization*, for a complete list.) Chapter 3 (RTA §§ 5310-5345) codified the Board's existing practices, at the time, for handling property tax appeals, and provides a more detailed description of each step in the property tax appeals process than the Board's prior *Rules of Practice* (Cal. Code Regs., tit. 18, 5010-5095), which were repealed and replaced by the RTA. Chapter 4 (RTA §§ 5410-5465) restated most of the *Rules of Practice* provisions and codified the Board's existing practices, at the time, for handling appeals from the Franchise Tax Board (FTB). Chapter 5 (RTA §§ 5510-5576) restated most of the *Rules of Practice* provisions and codified the Board's existing practices, at the time, for conducting oral Board hearings and deciding appeals in all of the Board's appeals processes. Chapter 5 also made several important improvements over the *Rules of Practice*, including making oral Board hearings more understandable to the public. Chapter 6 incorporated the Board's previously adopted regulations governing Taxpayer Bill of Rights reimbursement claims (RTA §§ 5600-5605) and the Board's previously adopted regulation governing the publication of annotations derived from legal rulings of counsel (RTA § 5700).

2010 Amendments to the RTA

At the time that the RTA was adopted, RTA Regulations 5237 and 5266 codified the Board's existing delegation of authority to appropriate Board staff, at the time, to grant or deny claims for refunds of specified taxes and fees, unless the refunds exceeded \$50,000. The Board subsequently changed the delegation of authority so that it applied to claims for refunds that did not exceed \$100,000, and the Board adopted amendments to RTA Regulations 5237 and 5266 to incorporate the change, which became effective on February 19, 2010. No other substantive amendments have been made to the RTA since it was originally adopted.

AB 2323 & RTC section 40

The Governor approved AB 2323 on September 29, 2012, and AB 2323 added section 40 to the RTC effective January 1, 2013. Section 40 provides as follows:

- (a)(1) The board shall publish on its Internet Web site a written formal opinion, a written memorandum opinion, or a written summary decision for each decision of the board in which the amount in controversy is five hundred thousand dollars (\$500,000) or more, within 120 days of the date upon which the board rendered its decision. (2) A decision of the board shall not include consent calendar actions taken by the board.
- (b) Each formal opinion, memorandum opinion, and summary decision as described in subdivision (a) shall include all of the following: (1) Findings of fact. (2) The legal issue or issues presented. (3) Applicable law. (4) Analysis. (5) Disposition. (6) Names of adopting board members.
- (c) (1) A board member may submit a dissenting opinion setting forth his or her rationale for disagreeing with the memorandum opinion or formal opinion. (2) A board member may submit a concurring opinion setting forth the board member's rationale for agreeing with the result reached in the memorandum opinion or formal opinion, if different than the rationale set forth in the memorandum opinion or formal opinion. (3) A dissenting opinion and a concurring opinion shall be published in the same manner as prescribed in subdivision (a) for a formal opinion or memorandum opinion.
- (d) A formal opinion or memorandum opinion adopted by the board may be cited as precedent in any matter or proceeding before the board, unless the opinion has been depublished, overruled, or superseded. A summary decision may not be cited as precedent in any matter or proceeding before the board.

Effect, Objectives, and Benefits of the Proposed Amendments to the RTA to Incorporate, Implement, and Clarify RTC Section 40

The Board discussed AB 2323 during its meeting on December 19, 2012, and directed staff to draft proposed amendments to the RTA that would have the effect and accomplish the objectives of implementing, interpreting, and making specific the publication requirements of RTC section 40, and incorporating the new publication requirements into the RTA. The Board also directed staff to meet with interested parties to discuss the proposed amendments prior to presenting them to the Board.

After meeting with the interested parties, Board staff prepared a Chief Counsel Memorandum and distributed it to the Board Members and interested parties on May 29, 2013. The Chief Counsel Memorandum recommended that the Board propose to:

- Move the definitions for the terms “Summary Decision” and “Formal Opinion”

- from Regulations 5311, 5451, and 5452 in chapters 3 and 4 of the RTA to Regulation 5511 in chapter 5 of the RTA, and add a consistent definition for the term “Memorandum Opinion” to RTA Regulation 5511 so that all of these terms, which are used in RTC section 40, are consistently defined in one place;
- Add definitions to RTA Regulation 5511 to clarify that all three types of documents are “written opinions,” Summary Decisions are “nonprecedential opinions” and Memorandum Opinions and Formal Opinions are “precedential opinions”; and
 - Add definitions to RTA Regulation 5511 for the commonly used terms “Appeal,” “Board hearing,” and “nonappearance matter.”

The Chief Counsel Memorandum recommended that the Board propose amendments to RTA Regulation 5551. The amendments revise subdivision (a) so that it more clearly explains the timing of the Board’s vote to decide an appeal. The amendments add a new subdivision (b) to RTA Regulation 5551 to explain that the “Board may, but is not required to, adopt a written opinion to decide an appeal. The Board may vote to decide an appeal by adopting a written opinion containing its decision, or the Board may vote to decide an appeal without adopting a written opinion at the time of the vote.” New subdivision (b) also explains the Board’s discretion to direct staff to prepare written opinions, the procedures for ensuring that the Board adopts written opinions when required by RTC section 40, the procedures for the adoption of precedential opinions prepared at the Board’s direction, the authority to cite written opinions in proceedings before the Board, and the confidentiality of written opinions, respectively. The amendments also renumber current subdivision (b) of RTA Regulation 5551 regarding dissenting and concurring opinions as subdivision (c), replace the phrase “Memorandum Opinion or Formal Opinion” with the term “precedential opinion” in renumbered subdivision (c)(1) and (2) and with the term “opinion” in renumbered subdivision (c)(1)(A) and (B), and replace the word “decision” with the word “opinion” in renumbered subdivision (c)(1)(B).

The Chief Counsel Memorandum recommended that the Board propose to adopt new RTA Regulation 5552 to incorporate the remaining provisions of RTC section 40 into the RTA. RTA Regulation 5552 specifically:

- Clarifies that for purposes of RTC section 40, “the Board’s decision on an appeal is rendered on the date that the Board’s vote to decide the appeal becomes final”;
- Clarifies the meaning of the phrase “amount in controversy” as used in RTC section 40, subdivision (a)(1); and
- Clarifies that RTC section 40’s publication requirements apply to decisions of the Board acting as a collective body in open session to resolve a pending dispute regarding an issued assessment of tax or fee or refund of tax or fee to a taxpayer, or the reallocation of local or district tax, that has been scheduled and appears as a contested matter before the Board on a Board meeting notice, including Board hearing and nonappearance matters, except for nonappearance consent calendar action items (as provided in RTC § 40, subd. (a)(1)).

The Chief Counsel Memorandum recommended that the Board propose to change the name of RTA Regulation 5573 from “Waiver of Confidentiality” to “Confidentiality.” The memorandum recommended that the Board amend subdivision (a) of RTA Regulation 5573 to further emphasize the broad waiver of confidentiality associated with the filing of an appeal from the actions of the FTB with the Board. The memorandum also recommended that the Board propose to add a new subdivision (f) to RTA Regulation 5573 to clarify that, “[e]ven in the absence of a waiver, there is no right to confidentiality as to relevant information that the Board or Board staff includes in a written opinion that is required to be published pursuant to [RTA Regulation] 5552.”

The Chief Counsel Memorandum recommended that the Board propose to add a new subdivision (g) to RTA Regulation 5574 to avoid potential confusion by clarifying that nothing in Regulation 5574 shall prevent the Board from publishing a written opinion when required under RTC section 40. In addition, the memorandum recommended that the Board propose additional amendments throughout RTA Regulations 5573 and 5574 so that they consistently use the terms “Board hearing,” “Summary Decision,” “Hearing Summary,” “appeal,” and “nonappearance matter” from RTA Regulation 5511.

Finally, the Chief Counsel Memorandum recommended that the Board propose to change the title of article 5 of chapter 5 of the RTA from “Voting and Decisions” to “Voting, Decisions, and Opinions” to better reflect that the article contains Regulations 5551 and 5552 regarding the adoption and publication of written opinions.

The Board Members considered the May 29, 2013, Chief Counsel Memorandum during the Board’s June 11, 2013, meeting, and unanimously voted to propose the amendments to the RTA discussed above. The effects and objectives of the proposed amendments are to clearly and concisely implement, interpret, and make specific RTC section 40 and incorporate section 40’s new publication requirements into the RTA to eliminate potential problems the Board might have had complying with the new publication requirements. The Board anticipates that the Board and interested parties, including taxpayers, will benefit from the proposed amendments because they clearly and concisely explain how the Board will implement and comply with RTC section 40’s publication requirements, and increase transparency in government.

The Board has performed an evaluation of whether the proposed amendments to the RTA to implement, interpret, and make specific RTC section 40 and incorporate section 40’s new publication requirements into the RTA are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations. This is because there are no other state regulations that implement, interpret, and make specific RTC section 40. This is also because RTA Regulations 5511, 5551, 5573, and 5574, and newly proposed RTA Regulation 5552 are contained in RTA chapter 5, which provides procedures that are specific to the Board’s actions on appeals, including the conduct of Board hearings and the adoption of written opinions, and RTA Regulations 5511, 5551, 5552, 5573, and 5574 are not inconsistent or incompatible with the other provisions of RTA chapter 5.

There is no previously adopted or amended federal regulation or statute that is comparable to RTA Regulation 5311, 5451, 5452, 5511, 5551, 5573, or 5574, or newly proposed RTA Regulation 5552.

Effect, Objectives, and Benefits of the Additional Proposed Amendments to the RTA

In addition, on December 19, 2012, the Board directed staff to draft proposed amendments to RTA chapters 2 through 4 that would have the effect and accomplish the objectives of making those chapters consistent with the amendments being made to RTA chapter 5 to implement, interpret, and make specific RTC section 40. The Board directed staff to draft proposed amendments to RTA chapters 2 through 5 that would have the effect and accomplish the objectives of addressing historical clean-up and housekeeping issues that have been identified by interested parties and Board staff since the RTA became effective in 2008, which are discussed in more detail in the initial statement of reasons. The Board also directed staff to meet with interested parties to discuss the additional proposed amendments prior to presenting them to the Board. Therefore, after meeting with interested parties, Board staff recommended that the Board propose additional amendments to make RTA chapters 2 through 4 consistent with the amendments being made to RTA chapter 5 to implement, interpret, and make specific RTC section 40, and address the historical clean-up and housekeeping issues in RTA chapters 2 through 5, in the May 29, 2013, Chief Counsel Memorandum.

Additional Proposed Amendments to RTA Chapter 2

The May 29, 2013, Chief Counsel Memorandum recommended that the Board propose to delete the references to “definitions” from the titles of article 1 of chapter 2 of the RTA and RTA Regulation 5200, and delete the provisions of RTA Regulation 5200 that refer to RTA Regulations 5511 and 5512 because they are unnecessary. In addition, the memorandum recommended that the Board make RTA Regulation 5200 more clear by replacing the regulation’s references to the various types of appeals that are provided for in chapter 2 with the term “appeal” as proposed to be defined in the amendments to RTA Regulation 5511 (discussed above), and reformatting the citations to the various tax and fee laws listed in the regulation as parenthetical citations.

The Chief Counsel Memorandum recommended that the Board propose to make the text of RTA Regulation 5212 more consistent with the terms “taxpayer” and “Board hearing” as defined or proposed to be defined in RTA Regulation 5511.

The Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulations 5215, 5215.4, and 5230 to update the references to the California Department of Toxic Substance Control. The memorandum recommended that the Board propose to amend RTA Regulations 5215 and 5230 to replace the references to the “State Director of Health Services” and “State Department of Health Care Services” with references to the “California Department of Public Health” due to statutory changes. The memorandum also recommended that the Board propose to replace the terms “petitioner” and “claimant” with the term “taxpayer” throughout RTA Regulations 5215 and 5230,

subdivision (c)(3), and amend Regulation 5230, subdivisions (b) and (e) so that they are more consistent with the Motor Vehicle Fuel Tax Law and Water Code, respectively. Furthermore, the memorandum recommended that the Board propose to amend RTA Regulation 5215.6 to make it more consistent with the provisions of Water Code section 1537, and propose to amend RTA Regulation 5224 to make it more consistent with Regulations 5215, 5215.4, and 5215.6.

The Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulation 5217 to clarify the procedures for acknowledging petitions for redetermination and make the regulation more concise. The memorandum also recommended that the Board propose to clarify the procedures for accepting untimely petitions as administrative protests in RTA Regulation 5220 and make the text of Regulation 5220 more consistent with the terms “taxpayer,” “Board hearing,” and “appeal” as defined or proposed to be defined in RTA Regulation 5511.

The Chief Counsel Memorandum recommended that the Board propose to amend:

- RTA Regulation 5218 to clarify the process for referring petitions to another office for further investigation and comment;
- RTA Regulations 5218 and 5219 to clarify the requirements for the Board’s Departments to prepare a summary analysis of an appeal and provide a copy of the analysis to the taxpayer before forwarding the appeal to the Appeals Division for the scheduling of an appeals conference;
- RTA Regulations 5218 and 5235 to clarify the requirements for taxpayers to request appeals conferences and Board hearings or confirm prior requests for appeals conferences and Board hearings in order to obtain an appeals conference; and
- RTA Regulations 5264 and 5266 to clarify the procedures for taxpayers to submit additional arguments and evidence to the Appeals Division during the appeals conference process, and the procedures for filing requests for reconsideration and requests for Board hearings to continue to contest the Appeals Division’s Decisions and Recommendations.

The memorandum recommended the amendments to RTA Regulations 5218, 5219, 5235, 5264, and 5266 so that taxpayers can keep track of their appeals better and clearly understand when they are required to take additional actions to continue their appeals.

The Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulations 5237 and 5266 to make their provisions regarding Board approval and public records more concise and more consistent with all of the Board’s current policies requiring Board approval of the Departments’ and Appeals Division’s recommendations. The memorandum recommended that the Board propose to move RTA Regulation 5266’s provisions regarding Board approval and public records to RTA Regulation 5267 and add similar provisions for Board approval to RTA Regulation 5218, which provides for the review of petitions for redetermination and administrative protests. The memorandum also recommended that the Board propose to clarify the procedures for the issuance of

post appeals conference notices in RTA Regulation 5267 so that they are entirely consistent with the Board's current practices.

RTA Regulations 5216, 5222, 5225, 5233, 5240, 5250, and 5262 prescribe the procedures for filing appeals and the procedures for filing requests to reschedule and postpone appeals conferences under chapter 2. These regulations all explain that the Board encourages the use of electronic means for the filing of appeals and appeals related documents, but the regulations do not provide any specific guidance on how to file documents via electronic means. Therefore, the Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulations 5216, 5222, 5225, 5233, 5240, 5250, and 5262 in order to delete the language encouraging the use of electronic means to file appeals related documents and add more specific information regarding the electronic filing of such documents. In addition, the memorandum recommended that the Board amend RTA Regulation 5250 so that it simply cross-references the provisions for filing local and district tax appeals, which are already provided by California Code of Regulations, title 18, division 2, sections (Regulations) 1807, *Petitions for Reallocation of Local Tax*, and 1828, *Petitions for Distribution or Redistribution of Transactions and Use Tax*, respectively. Furthermore, the memorandum recommended that the Board propose to amend RTA Regulation 5262 to explain the differences between deferrals and postponements of appeals conferences and clearly provide the procedures applicable to requests for deferrals and postponements.

The Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulation 5240 so that it provides for the filing of requests for innocent spouse relief under the Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, Diesel Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Timber Yield Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Law, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention and Administration Fee Law, Underground Storage Tank Maintenance Fee Law, and Fee Collection Procedures Law. The memorandum also recommended that the Board propose to amend RTA Regulations 5240, 5241, and 5242 so that they all cross-reference the applicable provisions of Regulation 4903, *Innocent Spouse or Registered Domestic Partner Relief from Liability*, which are applicable to requests for innocent spouse relief filed under the additional tax and fee laws listed above.

RTA Regulation 5247 incorporates and cross-references provisions in Regulation 1705, *Relief from Liability*, and Regulation 4902, *Relief from Liability*. Therefore, the Chief Counsel Memorandum recommended that the Board proposes to amend RTA Regulation 5247 to make it fully consistent with the provisions of Regulations 1705 and 4902.

The Chief Counsel Memorandum recommended that the Board make the RTA more complete by proposing to add a new article 5.5 to chapter 2 of the RTA and add new RTA Regulations 5255 and 5256 to new article 5.5 to cross-reference the Board's current regulations pertaining to Cigarette and Tobacco Products Licensing Act appeals, including petitions for the recovery of seized cigarette and tobacco products.

The Chief Counsel Memorandum recommended that the Board propose to amend subdivision (g) of RTA Regulation 5270 to make it consistent with the Board's current practice by providing that the Board may, but is not required to, accept untimely briefs at Board hearings regarding appeals subject to RTA chapter 2. The memorandum also recommended that the Board propose to amend RTA Regulation 5270 to clarify the introductory language in subdivision (a), make subdivision (b) cross-reference the identical filing provisions in RTA Regulation 5570, and delete an unnecessary reference to RTA Regulation 5264 from subdivision (b).

Finally, the Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulation 5266 to require the Appeals Division to acknowledge the receipt of requests for reconsideration, and explain that the Appeals Division may request additional information from the parties that may be relevant to the preparation of a Supplemental Decision and Recommendation. The memorandum also recommended that the Board propose to amend Regulation 5266 so that it requires the Appeals Division to notify the parties when the Appeals Division is required to or has decided to issue a Supplemental Decision and Recommendation, and requires the Appeals Division to issue a Supplemental Decision and Recommendation within 90 days after the submission of any additional information the Appeals Division needs to prepare the document.

Additional Proposed Amendments to RTA Chapter 3

The May 29, 2013, Chief Counsel Memorandum recommended that the Board propose to delete subdivision (a) from RTA Regulation 5311 because it is duplicative of the introductory language in RTA Regulation 5511, combine the two definitions for the County-Assessed Properties Division in Regulation 5311 into one definition, and make minor formatting changes to RTA Regulation 5311.

The Board generally conducts Assessment Factor Hearings in February. However, in years when the Board does not conduct a meeting in Sacramento during February, the Board will hold Assessment Factor Hearings during its January meeting in Sacramento. Therefore, the Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulation 5322 to provide that the Board generally conducts Assessment Factor Hearings at the Board's "January or February meeting in Sacramento."

The Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulation 5323.6 so that it no longer requires 10 hard copies of a petition that is submitted electronically, and propose to amend RTA Regulations 5323.6 and 5335 so that they both similarly explain how to file documents electronically, by hand delivery, and by mail and both directly cross-reference the Board Proceedings Division's contact information in RTA Regulation 5570 (as proposed to be amended below). The memorandum also recommended that the Board propose to amend RTA Regulations 5324, 5332, 5332.6, 5333, 5333.6, 5334, 5334.6, and 5336.5 to make the regulations' filing provisions consistent with the proposed amendments to RTA Regulations 5323.6 and 5335 and the regulations' terms consistent with the definitions in RTA Regulation

5511. Furthermore, the memorandum recommended that the Board propose minor grammatical changes to RTA Regulations 5323.8, 5333.4, and 5334.4.

The Chief Counsel Memorandum recommended that the Board propose to move the provisions in RTA Regulation 5311 prescribing the contents of Hearing Summaries and Summary Decisions for property tax appeal to RTA Regulation 5325.6, which currently provides for the preparation of Hearing Summaries and Summary Decisions for property tax appeals.

The Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulation 5345 so that the Board's decisions on petitions objecting to the County-Assessed Properties Division's findings of ineligibility for an organizational clearance certificate, denial of a claim for a supplemental clearance certificate, or denial of a claim for the veterans' organization exemption, and petitions filed with the Board by county assessors under GC section 15640 et seq. become "final 30 days after the date notice of the Board's decision is mailed to the petitioner, unless the petitioner files a Petition for Rehearing in accordance with the procedures provided in chapter 5 of [the RTA] within that 30-day period." The memorandum also recommended that the Board propose to amend RTA Regulation 5561 in chapter 5 of the RTA so that its provisions for filing petitions for rehearing apply to these new types of petitions for rehearing.

Additional Proposed Amendments to RTA Chapter 4

The May 29, 2013, Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulation 5421 in order to delete the regulation's language encouraging the use of electronic means to file documents in appeals from the FTB and add more specific information regarding the filing of such documents.

The Chief Counsel Memorandum recommended that the Board propose to replace the reference to Appeals Staff with a reference to the Appeals Division in subdivision (a) of RTA Regulation 5435 and propose to amend subdivision (e) of RTA Regulation 5435 so that it requires the Chief of Board Proceedings to be promptly notified about requests for additional briefing in appeals from the FTB, rather than the Board Chair.

The Chief Counsel Memorandum recommended that the Board propose to delete the definition of "Hearing Summary" from subdivision (a) of RTA Regulation 5444, move subdivision (a)'s remaining provisions prescribing the content of hearing summaries to the end of the first paragraph in current subdivision (b), renumber the first paragraph of current subdivision (b) as subdivision (a), and reformat the second paragraph of current subdivision (b) as new subdivision (b).

The Chief Counsel Memorandum recommended that the Board propose to repeal RTA Regulation 5450 and adopt new RTA Regulation 5453 to provide for the preparation of a notice of determination, rather than a letter decision, when the Board does not adopt a written opinion for an appeal from the FTB.

The Chief Counsel Memorandum recommended that the Board propose to delete subdivisions (a), (c), and (d) from RTA Regulation 5451 and subdivisions (a), (d), and (f) from RTA Regulation 5452 because the subdivisions will no longer be necessary after the proposed amendments to RTA Regulations 5511 and 5551. The memorandum also recommended that the Board propose to renumber the remaining subdivisions in RTA Regulations 5451 and 5452, and add provisions to make the regulations consistent with the provisions of RTA Regulation 5551 as proposed to be amended and RTA Regulation 5552 as proposed to be adopted.

The Chief Counsel Memorandum recommended that the Board propose to:

- Replace the references to the word “decision” with references to the word “determination” in RTA Regulations 5460 and 5463 to make the regulations more consistent with the phrasing of RTC section 19047 and to further aid FTB staff in distinguishing written opinions from “determinations” on appeals from the FTB; and
- Add language to RTA Regulation 5460, subdivision (a), explaining when the Board’s determination on an appeal from the FTB becomes final in situations where the determination is held in abeyance under the proposed amendments to RTA Regulation 5551.

The Chief Counsel Memorandum recommended that the Board propose to add provisions to RTA Regulation 5460, subdivision (c) to incorporate the Board’s existing policy with regard to the filing of petitions for rehearing in appeals from the FTB, which is that “no party may file a Petition for Rehearing in response to a Decision on Petition for Rehearing or the Board’s vote to determine an appeal after a rehearing.” The memorandum also recommended that the Board propose to add language to subdivision (c) of RTA Regulation 5562 to incorporate the Board’s existing policy with regard to the filing of petitions for rehearing in other types of appeals, which is that a taxpayer may not file a petition for rehearing in response to the Board’s decision to deny a prior petition for rehearing in the same appeal.

Finally, the Chief Counsel Memorandum recommended that the Board propose to delete unnecessary language from the definition of “Decision on Petition for Rehearing” in RTA Regulation 5463, subdivision (a) and make minor clarifying amendments to RTA Regulation 5463, subdivision (c).

Additional Amendments to RTA Chapter 5

The May 29, 2013, Chief Counsel Memorandum recommended that the Board propose to amend the title of RTA chapter 5 and subdivisions (a) and (b) of RTA Regulation 5510 so that it is clear that RTA chapter 5 applies to all the different types of appeals submitted to the Board for decision, not just appeals scheduled for a Board hearing. The memorandum also recommended that the Board propose to clarify the citations to the tax and fee laws specified in RTA Regulation 5510, subdivision (a), including adding a separate reference and citation to the Fee Collection Procedures Law and clarifying that

the Hazardous Substances Tax Law is applicable to appeals of the Childhood Lead Poisoning Prevention Fee and Occupational Lead Poisoning Prevention Fee.

The Chief Counsel Memorandum recommended that the Board propose to repeal RTA Regulation 5512 in its entirety because the regulation provides unnecessary definitions for common terms, and incorrectly defines the word “will.”

The Chief Counsel Memorandum recommended that the Board propose to delete all of the references to deferrals from RTA Regulation 5522.8 and just leave the references to postponements because the terms essentially have the same meaning in the context of RTA Regulation 5522.8. The memorandum recommended that the Board propose to amend RTA Regulation 5522.8, subdivision (b)(3) to clarify that the Chief Counsel has discretion to postpone an appeal if the Chief Counsel determines that pending litigation is likely to have a material bearing on the appeal and that the Board should wait to decide the appeal until after the Board knows the outcome of the litigation. Further, the memorandum recommended that the Board propose to delete the requirement that staff notify the Board when an appeal from the FTB is postponed as a result of a pending bankruptcy proceeding from RTA Regulation 5522.8, subdivision (b)(4), because the Board does not need such notice. Furthermore, the memorandum recommended that the Board propose to delete the incorrect reference to subdivision (a) from RTA Regulation 5522.8, subdivision (c), and make minor amendments throughout RTA Regulation 5522.8 to make the regulation more clear and make the regulation’s terminology more consistent with RTA Regulation 5511 as proposed to be amended.

The Chief Counsel Memorandum recommended that the Board propose to add a new subdivision (f) to RTA Regulation 5523.6 to provide procedures allowing for the use of electronic presentations at Board hearings because taxpayers and their representatives are regularly requesting permission to make electronic presentations during their Board hearings. The memorandum also recommended that the Board propose other clarifying amendments to RTA Regulation 5523.6 in order to delete the reference to “Exhibits” from the title of the regulation, revise the phrasing of the second sentence in subdivision (a) and the second sentence in subdivision (b), make the regulation’s terminology more consistent with RTA Regulation 5511 as proposed to be amended, and replace the word “refute” with the word “contest” in subdivision (d).

The Chief Counsel Memorandum recommended that the Board proposed to amend subdivision (a) of RTA Regulation 5561 to clarify that a taxpayer’s petition for rehearing must be signed by the taxpayer or the taxpayer’s authorized representative to ensure that the petition is authentic. The memorandum recommended that the Board propose to delete the filing provisions from RTA Regulation 5561, subdivision (b) and replace them with a cross-reference to the substantially similar filing provisions in RTA Regulation 5570. The memorandum also recommended that the Board propose to add paragraphs (4) through (6) to the current provisions in RTA Regulation 5561, subdivision (c), regarding the review of submissions that are intended as petitions for rehearing, to incorporate the Board Proceedings Division’s current practice of giving taxpayers time to complete timely filed submissions, clarify that the Board Proceedings Division will notify the

taxpayer if its submission is ultimately rejected, and explain that a taxpayer may only file one petition for rehearing with regard to the same appeal (as previously discussed).

The Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulation 5562, subdivision (a), to clarify that the Appeals Division may recommend that the Board revise its decision on an appeal based on information presented in a taxpayer's petition for rehearing, but still recommend that the Board deny the taxpayer's request for a rehearing after revising its decision. The memorandum recommended that the Board propose to amend RTA Regulation 5562, subdivision (c) to more clearly explain the options the Board has for deciding a petition for rehearing, how the Board's decision to choose each option affects the underlying appeal to which the petition relates, and when the Board's decision in the underlying appeal will become final. The memorandum also recommended that the Board propose to repeal RTA Regulation 5563 because RTA Regulation 5562, as proposed to be amended, will cover all of the same subject matter that RTA Regulation 5563 currently covers.

Finally, the Chief Counsel Memorandum recommended that the Board propose to amend RTA Regulation 5570 to delete the first sentence of subdivision (a), which encourages the use of electronic means for the filing of documents related to Board hearings, and update the Board Proceedings Division's contact information so that it includes the division's current email address and fax number where the division receives documents related to Board hearings.

June 11, 2013, Board Meeting

During the Board's June 11, 2013, meeting, the Board Members also unanimously voted to propose the additional amendments to RTA chapters 2 through 5 recommended in the May 29, 2013, Chief Counsel Memorandum. The effects and objectives of the proposed amendments are to make RTA chapters 2 through 4 consistent with the amendments being made to RTA chapter 5 to implement, interpret, and make specific RTC section 40, and address a number of historical clean-up and housekeeping issues in RTA chapters 2 through 5, which are discussed above and described in more detail in the initial statement of reasons.

The Board anticipates that the Board and interested parties, including taxpayers, will benefit from the additional proposed amendments to RTA chapters 2 through 5 described above because the amendments:

- Avoid potential confusion by making RTA chapters 2 through 4 consistent with the amendments being made to RTA chapter 5 to implement, interpret, and make specific RTC section 40;
- Address historical clean-up and housekeeping issues in RTA chapters 2 through 5, and
- Increase transparency in government by providing more detailed explanations of the Board's administrative and appellate review processes.

The Board has performed an evaluation of whether the additional proposed amendments to RTA chapters 2 through 5 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations. This is because:

- The proposed amendments are intended to ensure that the RTA contains or cross references all of the Board's administrative and appellate review procedures;
- The proposed amendments to chapters 2 through 5 of the RTA are not inconsistent or incompatible with the other provisions of RTC chapters 2 through 5 and they are not inconsistent or incompatible with each other; and
- The proposed amendments are not inconsistent or incompatible with other Board regulations that are not included in the RTA, such as Regulations 1807, 1828, 1705, 4902, and 4903, and the Board's Cigarette and Tobacco Products Licensing Act appeals regulations discussed above.

There is no previously adopted or amended federal regulation or statute that is comparable to RTA Regulations 5200, 2512, 5215, 5215.4, 5215.6, 5216, 5217, 5218, 5219, 5220, 5222, 5224, 5225, 5230, 5233, 5235, 5237, 5240, 5241, 5242, 5247, 5250, 5262, 5264, 5266, 5267, 5270, 5311, 5322, 5323.6, 5323.8, 5324, 5325.6, 5332, 5332.6, 5333, 5333.6, 5334, 5334.4, 5334.6, 5335, 5336.5, 5345, 5421, 5435, 5444, 5450, 5451, 5452, 5460, 5463, 5510, 5512, 5522.8, 5523.6, 5561, 5562, 5563, and 5570, or newly proposed RTA Regulations 5255, 5256, and 5453.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to the RTA described above will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the GC.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to the RTA described above will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the GC, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to the RTA described above will not have a significant, statewide adverse

economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to the RTA described above may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GC SECTION 11346.3, SUBDIVISION (b)

The Board has prepared the economic impact assessment required by GC section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to the RTA described above will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to the RTA described above will not affect the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to the RTA described above will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments to the RTA should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends at 09:30 a.m. on November 19, 2013, or as soon thereafter as the Board begins the public hearing regarding the adoption of the proposed amendments to the RTA described above during the November 19-21, 2013, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to the RTA. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared underscored and strikeout versions of the text of RTA chapters 2 through 5 illustrating the express terms of the proposed amendments to the RTA described above and an initial statement of reasons for the adoption of the proposed amendments, which includes the economic impact assessment required by GC section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's Website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GC SECTION 11346.8

The Board may adopt the proposed amendments to the RTA described above with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made to an RTA regulation that the Board is proposing to adopt, amend, or repeal, the Board will make the full text of the regulation, with the change clearly indicated, available to the public for at least 15 days before the Board adopts, amends, or repeals the resulting regulation. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written

comments on the resulting regulation that are received prior to the Board's adoption, amendment, or repeal of the resulting regulation.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to the RTA described above, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.